

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SYNCPOINT IMAGING, LLC, §
§
Plaintiff, § Case No. 2:15-CV-00247-JRG-RSP
§
v. §
§
NINTENDO OF AMERICA INC., ET AL.; §
§
Defendants. §
§

ORDER

SyncPoint moves for emergency relief in advance of the upcoming evidentiary hearing to (1) preclude Nintendo from calling SyncPoint's counsel to testify and (2) preclude Nintendo from offering testimony of an expert witness. ECF No. 342. The issue regarding Nintendo calling SyncPoint's counsel to testify is deferred until the hearing. It is not yet clear whether sworn testimony or even informal questioning of SyncPoint's counsel would be necessary, and the court would prefer to hear evidence related SyncPoint's counsel's involvement in the matters at issue before deciding the question.

SyncPoint's motion to preclude John Montegudo, Nintendo's expert, from testifying is DENIED. If Nintendo has not furnished SyncPoint with a report from Montegudo consistent with Federal Rule of Civil Procedure 26(a)(2), however, Nintendo is ORDERED to do so by June 9, 2018. SyncPoint may cross-examine Montegudo at the hearing.

SIGNED this 6th day of June, 2018.



ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE